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PASS EXIM FOR CLAIMS -- EDELARIVA
PASS USDA FOR CCC -- ALEUNG/DERICKSON/KCHADWICK
PASS USAID FOR CLAIMS
PASS DOD FOR DSCS -- PBERG

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TAGS: EFIN ECON EAID XM XA XH XB XF FR
SUBJECT: PARIS CLUB - JULY 2007 TOUR D'HORIZON AND GABON DEBT BUYBACK NEGOTIATION

SUMMARY

¶1. (SBU) Summary: At the July 17-18 meetings of the Paris Club, creditors accepted a stand-alone discounted debt buyback offer from Gabon, the first such operation by the Club. While welcoming Gabon's efforts to use USD 500 million in oil revenues toward debt management, the USG lacked legal authority to accept a discount and therefore could not participate in this voluntary operation. Further, the USG did not sign the Agreed Minute because a comparability of treatment provision restricted Gabon's contractual right to repay U.S. debts at face value in the future. PC creditors reacted favorably to the principle of a similar discounted buyback offer from Jordan and will seek more details on the structure of the operation Jordan envisions. Time-compressed discussion of the Gabon deal, however, revealed a need for more thorough Club consideration of both policy and practical aspects of this new type of operation, and the Secretariat undertook to prepare a paper.

¶2. (SBU) The United States, Germany, and Russia, Afghanistan's three PC creditors, signed an agreement to provide additional interim debt relief. The Club discussed the status of debt relief implementation for Iraq and a future treatment for Liberia. Based on assessments

by the IMF, the PC concluded that Georgia does not currently need additional relief and that the Comoros is not ready due to ongoing political instability. Creditors also reviewed plans to collect late interest from Angola, the status of negotiations to divide debt between Serbia and Montenegro, and a request by Sierra Leone to release funds held in escrow in the UK. The Paris Club accepted an action plan for addressing the problem of private litigation by so-called "vulture funds," which "free rides" on debt relief given to Heavily Indebted Poor Countries (HIPCs). Russia reiterated its request for the return of promissory notes. Spain announced its decision to expand the scope of its HIPC debt relief. End Summary.

Afghanistan

¶3. (U) Afghanistan's three Paris Club creditors (Germany, Russia, and the United States) concluded an agreement providing additional interim relief for reaching Decision Point in the Heavily Indebted Poor Countries (HIPC) initiative. The agreement calls for 90% cancellation of non-Official Development Assistance (non-ODA) debt service falling due after July 1, 2007. The United States will go beyond this requirement and forgive 100% of both ODA and non-ODA debt service falling due. Although the resulting debt reduction is modest, the agreement is nevertheless crucial in that it establishes a path for 100% reduction of the remaining stock of Paris Club debt at Completion Point in the HIPC process.

Angola

¶4. (SBU) The Netherlands and Sweden reported that Angola had cleared its remaining arrears to them (excluding late interest), paving the way for the Paris Club to pursue a previously agreed strategy for recovering the approximately $1.8 billion in late interest due. Paris Club Chairman Xavier Musca will approach Angolan Finance Minister de Morais to ask for an immediate payment of $1 billion. In return, as soon as the payment is made, the Paris Club will lift its objection to members' export credit agencies (ECAs) reopening in Angola. (NOTE: Although the Paris Club has no direct control over ECA cover policy, creditors have tried to influence it and keep ECAs off cover until all Paris Club arrears are cleared. In the case of Angola, this is the Paris Club's only immediate tool to leverage repayment. END NOTE.) Finally, Musca will ask the Minister to establish a schedule for paying off the balance of late interest over time. As an alternative inducement, Musca can offer a reduction in the late interest rate or any penalty charges, as a way to "soften" but not forgive late interest charges. (No late interest is owed to the United States.)

Comoros

¶5. (U) The IMF reported that the Poverty Reduction and Growth Facility (PRGF) program request had been withdrawn from Board consideration due to a sustained political crisis in the Comoros. A staff mission will visit the Comoros and revise the program once the political situation allows. The Comoros is a pre-HIPC Decision Point country. (The United States is not a creditor.)

Gabon

¶6. (SBU) Creditors concluded an agreement that will allow Gabon to buy back its non-ODA debt from participating creditors at an average discount of 15% below face value. This is the first time the Club has accepted a stand-alone discounted buyback. While full Club approval of the operation is required, individual creditor participation is voluntary. Belgium, Brazil, France, the Netherlands, Spain, Switzerland, and the UK signaled their likely participation. These creditors represent around 80% of the $2.5 billion in eligible debt, with France alone accounting for 60%. (NOTE: France informed us on the margins that it intends to go beyond the Club agreement to provide an even larger discount -- 20% or more -- as a bilateral concession. Embassy understands President

Nicolas Sarkozy, who met with President Bongo on July 26, may have promised such terms in an initial bilateral meeting in May. END NOTE.) Canada, Germany, Italy, Japan, and the United States will not participate. Creditors must confirm participation by October ¶15.

¶7. (SBU) Gabon must commit by December 1 to the precise amount it intends to buy back. This will depend on how much money it is able to raise in regional and international markets at advantageous rates. Germany floated an alternative proposal consisting of a

partial prepayment at par, combined with an undefined re-profiling of the balance. While the Secretariat and Gabon did not support the proposal, it did serve to highlight concerns shared by several creditors that Gabon might have trouble raising funds in international capital markets on terms that would improve its debt profile.

¶8. (SBU) While other countries had raised concerns at the June meeting about the implications of this unprecedented operation, the United States was the only country not to sign the Agreed Minute. The United States joined consensus in allowing the operation to proceed, but cited legal concerns surrounding the Agreed Minute's "comparability of treatment" provision, which restricted Gabon's ability to offer prepayments at face value in the future. This specifically contravened prepayment provisions in U.S. debt contracts with Gabon.

¶9. (SBU) The U.S. delegation initially attempted to strike the comparability of treatment provision, arguing that it had no place in this voluntary operation and that Gabon should retain the right to prepay at face value in future if its circumstances improved. U.S. del later suggested, as a compromise, adding either a time limit or a face-value repayment exclusion to the comparability of treatment provision. The Paris Club Chairman rejected these proposals. Canada, Germany, and Japan supported the U.S. position but ultimately agreed to sign the agreement with minor changes that, for them, left open the possibility of a future early repayment at face value. The United States provided a side letter welcoming Gabon's efforts to pursue sound debt management through a buyback operation and explaining that our lack of participation was due to domestic legal reasons.

Georgia

¶10. (U) Creditors agreed that Georgia does not require further debt relief from the Paris Club at this time. (Georgia's 2004 rescheduling agreement with the Paris Club contained a goodwill clause expressing creditors' willingness to consider a follow-up debt treatment under the Evian approach, should it be necessary to restore debt sustainability.) The IMF reported that Georgia's debt indicators have consistently improved in recent years, thanks to strong economic growth and prudent debt management. The IMF's most recent analysis concluded that Georgia was at a low risk of debt distress. Separately, the Netherlands said it had received a letter from the Georgian Finance Minister proposing, on a bilateral basis, a discounted buyback of Georgia's debt to the Netherlands. The Netherlands said it would refer the minister to the Paris Club.

Iraq

¶11. (U) The IMF said Iraq had requested a technical extension of the current Stand-By Arrangement (SBA) until end-December 2007 to avoid

any gap in programming. (A gap could conceivably jeopardize the third and final tranche of Paris Club debt relief, which requires three years under an IMF program.) A successor arrangement could be in place by the end of the year.

¶12. (SBU) Russia asserted that Iraq's May 2007 letter to the Secretariat complaining that Russia is attempting to tie debt relief

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to oil contracts presented a distorted view of the situation.

Russia reiterated its intention to implement the terms of Iraq's 2004 Paris Club agreement and noted that a final draft was ready for signature. Treatment of Iraq's debt has received much attention in Moscow, including in the Duma, which explains why "internal procedures" have been slow and difficult. Russia stated that an intergovernmental commission with the Iraqi authorities to review a range of bilateral issues should take place sometime after planned preparatory meetings in late July. The Russian delegation was hopeful this would lead to signature of the bilateral agreement.

¶13. (SBU) Germany circulated a paper defending its decision to pursue a post-1990 claim on Iraq. The United States said creditors would need more time to examine the arguments made in the paper. Although the Secretariat suggested that Germany's claim is not a clear-cut case of a transfer (as opposed to a debt, and thus subject to treatment), it said it lacked sufficient information to determine the precise nature of the claim and therefore could not say conclusively whether the claim should fall within the scope of Iraq's July 2004 Paris Club agreement. Moreover, the Secretariat did not think it was appropriate to take sides in a disagreement between a debtor and creditor or to respond to the letter from the Iraqi authorities on this matter.

Jordan

¶14. (SBU) Creditors welcomed Jordan's proposal to buy back its Paris Club debt at a "fair discount rate," which they viewed as an indication that Jordan wishes to pursue sound debt management. The UK said it was prepared to consider Jordan's offer "flexibly." Germany expressed support and said it was looking forward to learning more details. Spain noted that Jordan had exited from the Paris Club and was therefore a legitimate candidate for a buyback. Japan, which accounts for over 50% of Jordan's debt to the Paris Club, said it supported a discounted buyback in principle, but could only participate in a prepayment at face value. The United States echoed this position. Canada voiced support, but said its participation was unclear.

¶15. (SBU) The Secretariat will collect loan data from all PC creditors and seek additional details from Jordan on the structure of its offer. The IMF noted that an early repayment operation could represent prudent debt management for Jordan, provided financing is on appropriate terms. Gabon's buyback operation raised a number of issues that will require further USG and Paris Club consideration before acting on Jordan's request. The Secretariat will prepare a working paper to facilitate this review.

Liberia

¶16. (U) The IMF briefed creditors on the latest strategy for clearing Liberia's arrears to the international financial institutions (IFIs) and moving directly from a Staff Monitored Program (SMP) to a financed arrangement, followed immediately, or soon thereafter, by HIPC Decision Point. The IMF asked if creditors were prepared to provide financing assurances during the August break (when no Paris Club meetings are held), if necessary. Creditors agreed this could be done by email. The Netherlands asked if the IMF had a plan for dealing with private creditors who might pursue litigation to collect in full rather than provide Liberia debt relief on Paris Club terms. The IMF said it had met with the GOL and private creditors and was hopeful that most of Liberia's private debt could be settled on HIPC-comparable terms.

Serbia

¶17. (SBU) Following further discussions with the Serbian authorities, Germany is no longer confident that Serbia and Montenegro will agree to apportion their debt to Germany based on the debtor/guarantor principle, rather than the final beneficiary principle. The Netherlands said it had not made any progress either. Japan said it was sending a delegation to Belgrade later

this month and hoped to reach a compromise solution. The Secretariat said it would wait for the results of the Japanese

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meeting, then circulate to creditors a revised letter to the newly appointed Serbian Finance Minister. Creditors will decide in September whether to send the letter.

Sierra Leone

¶18. (SBU) The Secretariat asked whether any creditors objected to releasing to Sierra Leone the $4.5 million held in an escrow account at the Bank of England. (The account was opened in 1984 to meet debt service payments under the 1984 Paris Club agreed minute and subsequent agreed minutes. Sierra Leone reached Completion Point in 2006, at which time all of its Paris Club debt was canceled. Sierra Leone's central bank governor has asked the Paris Club to release the funds in the account so they can be directed to other government obligations.) The United States said it was in the process of confirming whether it could agree to release the funds and promised to keep the Secretariat informed. Italy said the Paris Club should urge Sierra Leone to use the funds for poverty reduction.

Litigating Creditors

¶19. (SBU) Creditors endorsed without controversy a working paper distributed by the Secretariat aimed at identifying concrete and practical options for countering aggressive litigating creditors. Ahead of the Paris Club meeting, G7 review of the Secretariat's paper had forged agreement on actions that fall clearly within Paris Club expertise. Germany raised the possibility of broadening efforts to support non-HIPC countries, but the United States and other creditors agreed to keep the focus on HIPCs for now. The Netherlands said it was important to look at data on actual assets seized, as opposed to judgments awarded, to have a better understanding of the scope of the problem. Italy, the UK, and the United States commented that amicus briefs or supplements drafted by the Secretariat would not be useful in their domestic courts. Australia and Canada stressed the importance of distinguishing so-called "vulture funds" from legitimate claimants seeking to enforce their contracts rights. Australia added that the notion of changing contract design was problematic. The United States stated that the Secretariat's reference to modifying legislation to limit amounts awarded to litigating creditors was a non-starter. Australia agreed that new legislation would likely be a non-starter.

¶20. (U) The Secretariat committed to: (1) coordinate any debt management technical assistance with other organizations; (2) initiate a survey (at U.S. suggestion) of creditors' national legislation regarding the protection of sovereign assets, including central bank assets; (3) renew outreach to non-Paris Club creditors, including China; and (4) invite the legal team that defended Zambia against Donegal to brief the Paris Club at the September session.

Return of Promissory Notes to Russia

¶21. (U) Russia reiterated its April request that creditors return promissory notes and bills of exchange that had been cancelled as a result of previous prepayment operations. If the promissory notes cannot be located, Russia asked creditors to provide a letter to Russia listing all loan agreements covered. Russia offered to provide a template that would meet its needs. (Note: The United States does not hold any of these promissory notes and had previously provided Russia a letter acknowledging repayment of its debts.)

Spain's New HIPC Policy

¶22. (U) Spain announced its new policy to cancel all ODA and non-ODA

debt contracted before 2004 for HIPC countries having reached completion point. The new policy will result in 380 million euros in additional debt reduction, to be implemented through debt swaps (40%) and direct budgetary aid (60%).

STAPLETON